THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.24473 OF 2005

Dt.21.11.2005

Between:

P.Narayana Rao

… Petitioner

And

The Joint Director, Anti Corruption Bureau,

City Range, Hyderabad and 3 others. … Respondents

ORDER:

The petitioner seeks to issue writ of mandamus directing the respondents – Inspector of Police, Anti Corruption Bureau, City Range, Hyderabad and Investigating Officer in Cr.No.16/ACB/CR-II/2001 to consider the representation of the petitioner dated 9.11.2005 by taking into consideration the explanation dated 7.6.2005 submitted pursuant to the show cause notice dated 23.5.2005 before finalizing the final report.

Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel and Special Public Prosecutor for A.C.B appearing on behalf of respondents 1 and 2.

The petitioner submits that he worked in various capacities in the A.P.State Legislative Assembly and retired from service as Translator. He was allotted one plot in Sri Venkateshwara Co-operative House Building Society for A.P.Legislators at Banjara Hills, as he was a member of the said society. It is sated that he was also Vice President of the said Society in the year 1991-93. It is stated that the Government initially allotted 100 acres in the year 1982 and thereafter allotted 4 acres of land in Sy.No.102/1 Hakimpet Village, Shaikpet Mandal, Hyderabad District, vide G.O.Ms.No.1013 (Revenue Assignment III) dated 8.11.1991 and possession of the said land was handed over on 14.11.1991 and 15.11.1991 and in the said area plots have been allotted to various members of the Society. While so, a case has been registered in Cr.No.16/ACB/CR-II/2001 dated 4.10.2001 for the offence under Section 13(2) read with 13(i)(e) of the Prevention of Corruption Act 1988 on the ground that the petitioner possessed assets disproportionate to the known source of income. It is stated that pursuant to successive notices, the petitioner made a detailed representation to the 2nd and 1st respondents on 7.6.2005 and another representation on 9.11.2005. It is the apprehension of the petitioner that without considering the said representations dated 7.6.2005 and 9.11.2005 the Investigating Officer is going to file final report about the alleged disproportionate assets to the known sources of income. Therefore, he seeks writ of mandamus to direct the respondents to consider and dispose of the said representations before finalizing the final report.

Sri V.Ravi Kiran Rao, learned Standing Counsel appearing on behalf of respondents 1 and 2 submits that the petitioner is not entitled to seek such writ of mandamus even before the charge sheet is filed with regard to disproportionate assets and in support of his contention he relied on the judgment of the Supreme Court in ***K.Veeraswamy v. Union of India***. It is stated that the said case arose after filing of charge sheet on the ground that the explanation submitted by the petitioner therein was not before filing of the final report.

It is true that the said case arose after filing of the charge sheet and the petitioner seeks to issue writ of mandamus to have an audience even before the final report is filed. No doubt, in the case of disproportionate assets it is for the Investigating Officer to consider the explanation and file the final report. But even before the final report is filed, I am of the opinion that the petitioner is not entitled to seek any direction directing the respondents to consider his representations. Until the said representations are considered and final report is filed, it is not open for the petitioner to have a grievance stating that the respondents are not going to consider the same. If the said representations are not considered, the petitioner will have an opportunity before the concerned Special Court for S.P.E and A.C.B cases to prove his contentions stating that the finding arrived by the Investigating Officer in the final report is not true and correct and not in accordance with law. But, even before the final report is filed and even before completion of the relevant stages under the Criminal Procedure Code, the petitioner is not entitled to seek writ of mandamus. Therefore, I am of the opinion that the prayer in the writ petition is premature and no relief can be granted in this writ petition.

The writ petition is accordingly dismissed. No costs.

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(V.ESWARAIAH, J.)

21.11.2005

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